This funding makes it more likely—obviously not less likely—that employers will continue their retiree benefits. I think I ought to emphasize what $89 billion happens to be. That is 20 percent of all the money we are putting in this bill for prescription drugs for seniors. Now the Congressional Budget Office estimates that 17 percent of the retirees will not receive supplemental drug coverage from their employers beyond what is offered by Medicare in this bill. We have a different estimate from the Employee Benefits Research Institute that is outside of our government. It is a nationally respected organization that studies retiree benefits. They estimate that that number is going to be much smaller: 2 to 9 percent of the retirees might not receive supplemental coverage from their employer in the future if Congress passes the Medicare benefit.

According to the Employee Benefits Research Institute, if Congress creates a Medicare drug benefit of any kind, some employers will want their retirees to take advantage of that new benefit. This is an important part of the rest of the story. The only way to prevent employers from putting their retirees in the Medicare drug program is if we don't pass legislation such as this, if we say we don't give a darn about the 25 to 30 percent of the people who don't now have prescription drugs and we don't care if they ever have it. That is not the attitude of Congress. That is why this legislation is before us, because we do care about people who can't afford or don't have available a plan for prescription drugs.

For those people, particularly on this side of the aisle, who have been complaining about not doing enough or that passing this bill might cause some corporations to change their health benefits and prescription drugs for their seniors, do they think we should do nothing? No, they don't think so. They are crying because we aren't doing enough. I tell you honestly, we could put $400 billion, all of this bill, into just those 30 percent of the people in this country who retire from corporations that have a pretty good prescription drug program, probably better than most people have, and I couldn't guarantee anybody in this country that some corporation, big or little, wouldn't dump their programs, just dump them, as they have been doing for 20 years.

Let me be clear, these retirees will not be left without drug coverage. Retirees are not going to lose drug coverage. Why? Because of this bipartisan bill before us. These retirees will still be better off than today, because today when their employer drops coverage, they are left with nothing—no coverage whatsoever. Because of this bill, these retirees will be getting drug coverage from Medicare, and their former employer will likely pay the monthly premium for them. They will still be better off than they would be today where there is no Medicare drug benefit to back them up.

It is also important to recognize that keeping employers in the game lowers the Federal cost of the drug benefit. That is why we are concerned about the taxpayer as well as the corporate retiree. Obviously, if it is dumped, it is going to cost the plan more than if they stay on the corporate plan. So providing this 28 percent subsidy actually lowers the cost of the Medicare benefit. This generous 28 percent subsidy for retiree coverage is good policy. And because it is good policy, it is good politics. This bipartisan bill protects retiree benefits. That has been our goal, and we have accomplished it.

Mr. GRASSLEY. Mr. President, Medicare contractor reform will not succeed if contractors are subject to unlimited civil liability in carrying out the payments, provider services, and beneficiary services functions expected of them. The conference agreement would therefore continue the past policy of limiting the liability of certifying and disbursing officers, and the Medicare administrative contractors for whom those officers serve, with respect to certain payments.

In addition, the language contained in section 911 of the conference agreement clarifies that Medicare administrative contractors are not liable for inadvertent billing errors but, as in the past, are liable for all damages resulting from reckless disregard or intent to defraud the United States. Importantly, the reckless disregard standard is the same as the standard the standard under the False Claims Act. This standard balances the practical need to shelter Medicare administrative contractors from frivolous civil litigation by disgruntled providers or beneficiaries with the Medicare program's interest in protecting itself from contractor fraud.

The False Claims Act, 31 U.S.C. §§3729–3733, applies to Medicare fiscal intermediaries and carriers under current law. This legislation makes it clear that the False Claims Act continues, as in the past, to remain available as a remedy for fraud against Medicare by certifying officers, disbursing officers, and Medicare administrative contractors alike and that, among other things, the remedy subjects Medicare contractors to administrative, as well as trust fund, damages.

ORDERS FOR MONDAY, NOVEMBER 24, 2003

Mr. GRASSLEY. Mr. President, for the leader, I would like to give what is referred to daily as the closing script, if I may.

I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., Monday, November 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the conference report to accompany H.R. 1, the Medicare modernization bill, provided that the time until 12:30 p.m. be equally divided between the chairman of the Finance Committee or his designee and the minority leader or his designee. I further ask unanimous consent that the cloture vote on the conference report begin at 12:30 p.m. Finally, I ask that the last 10 minutes prior to the vote be allocated to the Democratic leader for 5 minutes, to be followed by the majority leader for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, tomorrow morning we will resume debate on the Medicare modernization conference report. Under the previous order, there will be approximately 3½ hours of debate prior to the cloture vote on the conference report which is locked in to occur at 12:30 p.m. The cloture vote on the conference report will be the first vote of the day. It is my hope and expectation that cloture will be successful. This issue deserves an up-or-down vote. I urge my colleagues on the other side of the aisle to allow this process to move forward.

MORNING BUSINESS

THE FLORIDA CITRUS INDUSTRY

Mr. NELSON of Florida. Mr. President, this week, leaders from thirty-four countries around the Western Hemisphere gathered in Miami for the Free Trade Area of the Americas (FTAA) Ministerial and Americas Business Forum for the purposes of expanding free trade within the Western Hemisphere.

The negotiations at this and future Ministerial meetings will greatly impact my State of Florida.

This event drew large headlines in the papers across the hemisphere as leaders converged upon Miami and anti-globalization protesters gathered outside to voice opposition. In this context, I feel it appropriate to commend Miami-Dade County, the City of Miami, and all the local and Federal law enforcement officers who helped keep the peace during a tense week of negotiations, and everyone who made it a success.

But in light of these talks, I want to share my own concerns regarding the FTAA negotiations, and the path ahead.

These talks did generate positive movement forward, towards greater economic integration in the hemisphere. Trade Ministers agreed to a baseline of minimum standards for a full and comprehensive agreement that takes into account differing levels of development among nations. This framework is a step forward that gives nations flexibility.

A carefully negotiated Free Trade Area of the Americas could generate new economic opportunities for Florida, our country, and the entire Western Hemisphere.

Yet, the FTAA poses opportunities and challenges for Florida as we work to make Miami the premier U.S. candidate city for the location of the permanent FTAA Secretariat, while at the same time protecting the viability of a key part of our way of life in Florida—the domestic citrus industry.

We must be cautious about the scope of the final FTAA and consider how it affects our domestic industries. I urge U.S. negotiators to take some important concerns into account as an agreement is shaped in the months ahead. The different parties, alliances, and groups involved in the negotiations have gone back and forth on which goods and products to include in a final agreement, and the flexibility provided for in the final Miami Declaration reflects this fact.

Citrus is one product that must not be included in these negotiations. I again call upon the Administration, as I have done in the past, to give citrus special consideration; given the unique nature of the citrus fruit and juice trade.

The administration should state unambiguously that it will not agree to any reduction of the current tariff on imported orange juice in the context of the FTAA or any other trade negotiation, until Brazil ceases its monopolistic, anticompetitive trade practices. Let me explain why this is so important to the State of Florida.

This tariff is a lifeline for Florida's citrus industry and the State's economy because it helps to promote competition—and it enables us to compete in the global marketplace.

It is very clear that any reduction in the tariff would destroy Florida's citrus industry and devastate the State's economy. The citrus industry is the State's second largest, contributing over $9 billion to our economy. And the citrus industry accounts for nearly 90,000 direct and indirect jobs throughout Florida and the country.

A collapse of this industry would not only cost tens of thousands of jobs, it would also cost the State and county governments of Florida up to $1 billion in lost tax revenues.

This would mean less money for other vital public services, such as police and firefighters.

This spring, I arranged for Andrew LaVigne, Executive Vice President and CEO of Florida Citrus Mutual to testify before the Senate Foreign Relations Committee and share these arguments, for the benefit of my colleagues in the U.S. Senate so that they could be made a permanent part of the record, because they are so strong.

Orange juice consumption is concentrated chiefly in two places: the United States and the European Union. Unlike other agricultural products, production is also limited chiefly to two places: the United States and Brazil. Florida's growers provide the vast majority of U.S. citrus that is used for orange juice.

Florida's citrus industry is efficient, competitive, and environmentally responsible; it is also one of only a handful of U.S. agricultural commodities that receives no federal or state subsidies. Let me say it another way: American taxpayers do not subsidize the citrus industry, unlike many other sectors that reaped benefits in last year's farm bill.

Florida's citrus industry is composed of 12,000 growers, many of them small family-owned operations, in addition to the many tens of thousands of others around the state and country who contribute to this $9 billion industry. But, this is more than just an economic engine to Florida. It is an American way of life.

Brazil's citrus industry, in contrast, is dominated by four large producers who form large export cartels to maximize their advantage and squeeze small producers. The industry also benefits from advantages brought by years of past subsidization and dumping, lax environmental laws, weak and largely unenforced labor laws, and price manipulation. And, Brazilian orange juice already has access to U.S. markets. Their government's pronouncements to the contrary are counterproductive to advancing greater hemispheric economic cooperation.

Brazil's citrus industry also continues to rely heavily on child labor and the low wages associated with using children.

In Florida, we do not allow children to work in our orange groves.

Until Brazil whole-heartedly enforces its labor laws, putting an end to child labor and paying workers a decent living wage, there will not be a level playing field for competition.

Florida's citrus industry can compete with Brazil, or anyone else, as long as there is a fair playing field. WTO negotiations should deal with these problems. But in the meantime, the tariff on frozen concentrated orange juice imports acts to balance the anti-competitive practices of Brazil. It also acts to prevent the large Brazilian producers from overwhelming the U.S. market and driving Florida's 12,000 growers out of business.

During the Trade Promotion Authority debate in 2001, Senator GRAHAM and I offered an amendment that would have prevented tariffs from being reduced on commodities imported from other countries in violation of trade laws, such as Brazilian orange juice.

Although this amendment was defeated, we were successful in including language that required the Administration to study and report to the Congress on the economic effects that a tariff removal would have on import-sensitive commodities like frozen concentrated orange juice and citrus. I look forward to reviewing the results of these studies as the debate progresses.

Without this tariff, the Florida citrus industry could collapse, and Brazil would have a monopoly over the global market. Already, Brazil produces 53 percent of the world's orange juice and has a virtual monopoly over the European market.

Removal of this tariff would not enhance free trade—it would, rather, giver Brazil a total world monopoly and make that country the world's dominant citrus and citrus juice producer and enable them to control market supply, access and prices with no competition.

This would not only devastate Florida's citrus industry, it would also be bad for all consumers. Absent competition from Florida's growers, the large Brazilian cartels would have all consumers at their mercy.

I have worked to bring these issues to the attention of the Administration and to ensure that one of Florida's primary industries is not traded away at the negotiating table, and I will continue to do so. In fact, I plan to travel to Brazil in the coming weeks and have asked to meet with President Lula da Silva so that I can carry the message of the Florida citrus growers: free trade can only benefit American consumers if it offers free and fair competition and is not monopolistic—so Brazil must reform its monopolistic citrus industry.

It is past time for this administration to acknowledge the inequalities between the U.S. and Brazilian citrus industries, and recognizing these inequities, to treat citrus accordingly.

I would like to conclude by again urging the administration not to agree to any reduction of the current tariff on imported orange juice, because if they do, an American industry and American consumers will pay a steep price. These issues are too important to the people of Florida to be ignored, and we will all be watching closely in the months ahead.

I ask unanimous consent to have printed in the record conclusions in the testimony from Executive Vice President and CEO of Florida Citrus Mutual, from a hearing before the House Agriculture Committee on June 18, 2003, and Squire Smith, President of Florida Citrus Mutual, before the House Agriculture Committee, Subcommittee on Livestock and Horticulture on November 5, 2003, and an Op-Ed that appeared in the Miami Herald on November 19, 2003.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCLUSION

The U.S. market is by far the most significant market we have. Unlike dairy and crop commodities, which are consumed throughout the world, orange juice is consumed primarily in the highly developed market economies of the United States and Europe. With Brazilian juice firmly entrenched in Europe at rock bottom prices, it only makes sense for Florida producers to concentrate on sales at home. Our growth in exports of specialty products, such as NFC, must necessarily be incremental and secondary to the

domestic market for FCOJ. While the Florida industry will continue to seek out new export markets, both for fresh and processed products, it is myopic to think that we are likely to be as large a factor in foreign markets as Brazil. We simply do not have the domestic subsidies we would need to compete with the Brazilians and Europeans in Europe. Furthermore, we cannot be there to develop those new foreign markets slowly over the many years it will take them to achieve higher disposable incomes, if the Florida industry is forced out of existence by the elimination of the tariff. We want to serve the U.S. market and we can do so without the huge government payments that other agricultural sectors receive. However, the U.S. orange juice tariff is necessary to offset the unfair or artificial advantages that lower the price of Brazilian juice.

Florida Citrus Mutual understands that free trade in many industries, including many agricultural industries, leads to increased competition, eventual price benefits to consumers, and overall global economic growth. Unfortunately, free trade cannot deliver these rewards to such a concentrated and polarized global industry, especially one in which the developing country's industry is, in fact, already the most highly developed in the world. Florida Citrus Mutual appreciated the opportunity to explain to the Committee the unique global structure of the orange juice industry and the negative economic effects that would occur as a result of U.S. tariff reduction or elimination.

DOMESTIC POLICIES AFFECTING THE SPECIALTY CROP INDUSTRY

CONCLUSION

The U.S. Government's approach to domestic policy that impacts the fruit and vegetable industry, including the citrus industry, is to a large extent driven by the U.S. trade policy as it affects the industry. Our ability to properly address issues of pest and disease interdiction and eradication, labor law reform, agricultural research and export market growth depend almost entirely upon the balancing impact of the tariff, which assures that the industry can continue to exist in an unsubsidized domestic environment alongside otherwise artificially manipulated global competition.

[From the Miami Herald, Nov. 19, 2003]

TARIFFS WOULD CONTROL OVERSUPPLY

(By Mark Ritchie)

Last September in Cancún, the Bush administration's promises of free trade's benefits ran headlong into the reality of the last ten years under the World Trade Organization and the U.S.-Canada-Mexico arrangement known as NAFTA—the North American Free Trade Agreement.

Governments from Latin America, Africa and Asia decried the loss of millions of farm jobs, and denounced a system that promotes the continued export of agricultural commodities below their cost of production price (dumping) by U.S. and European agribusiness corporations. That's why the WTO talks in Cancún collapsed.

Fortunately, a close look at the underlying conflicts at the WTO reveals the potential for a new approach that negotiators trying to create a Free Trade Area of the Americans should use as a blueprint. It would create a win-win solution to the chronic low prices that plague farmers in the United States, Brazil and elsewhere.

International trade negotiations used to be about finding solutions that were aimed at benefiting societies as a whole. In 1947, just a few miles from Miami, governments met in Havana to discuss the creation of the International Trade Organization (ITO). The stared goal for the organization was full employment and the need to global monopolies and predatory trade practices. At that time, the nations gathered knew well the ravages of war and the role that brutal trade conflicts played in creating the economic Depression of the 1930s, the breeding ground for fascism.

BALANCING NEEDS

At the talks in Havana, the U.S. Department of Agriculture brought forward a special set of agricultural trade rules that would help balance the needs of producers and consumers with an emphasis on protecting food security over the long term. In essence, U.S. negotiators, with the Great Depression still very much on their minds, developed rules that helped nations balance supply and demand.

The ITO never got off the ground, but these agricultural rules were included in the original general Agreement on Tariffs and Trade, precursor to the WTO. The rules allowed nations to use quantitative import controls as long as they were imposing supply controls. This spurred countries to address domestic oversupply, helping to bring global supply and demand into balance. This plan was key to the ''golden era'' for U.S. and global agriculture in the 1950s and 60s.

The WTO Agreement on Agriculture undid this important work, but now the ministers gathering in Miami have an opportunity to make improvements by returning to the work done by the pioneers back in Havana in 1947. They have to tackle global over-supply in ways that can help producers in Florida and Brazil earn a profit by restoring the balance between supply and demand that has been damaged by the ''race to the bottom'' results of free trade.

Negotiators must address monopoly-style business practices that dominate global trade in highly competitive products when global prices fall too far.

TARIFFS BENEFICIAL

The solution to low commodity prices in general, be it orange juice or coffee, is not that complicated. Every business knows that when supply and demand are out of balance, there is going to be trouble. In agriculture, when there is not enough supply, some people go hungry. When there is too much supply, prices drop, farmers suffer and many go out of business.

We need modern trade agreements that enable countries to restore the balancing mechanisms for supply and demand. To take that step, the Bush administration needs to unlock the ''free trade'' straitjacket of eliminating tariffs at all costs, and start focusing on agricultural market fundamentals.

ADDITIONAL STATEMENTS

DANIEL AND JO ANN PLATT

● Mr. BOND. Mr. President, today I rise to honor two outstanding Missourians, Daniel and Jo Ann Platt. The occasion is a special one, as they celebrate their 50th wedding anniversary.

Only a year after Jo Ann, a native of Indiana, and Dan, a New Yorker, were married on December 5, 1953, they came to the Midwest from Manhattan, where Dan—an anesthesiologist—had been asked to become chief of the Anesthesia Department at Knickerbocker Hospital and the New York Eye and Ear Infirmary.

Instead, Dan practiced at Alton Memorial Hospital, a place where the Platts believed that he could engage in a personal, patient-centered style of medicine that was impossible in a larger, more urban hospital setting. And there, he opened the first recovery room in the St. Louis metropolitan area, and established one of the first coronary care units and intensive care units in the St. Louis area, along with Barnes Hospital. Upon Dan's retirement in 2002, Alton Memorial Hospital dedicated its surgical and emergency building in his name, to commemorate his 48 years of service to the community, complete with a bust and a plaque paying tribute to Dan as ''the consummate physician.''

As Dan worked long hours at the hospital, Jo Ann was busy, as well. Over the years, she has served the community in many capacities, including as a member of the board of trustees of St. Louis Country Day School, on the vestry of The Church of Saint Michael and Saint George, on the board of governors of the Saint Louis Woman's Club, on the board of the St. Louis Charitable Foundation, and as a board member for both the Jennie D. Hayner Library Association and the Alton Museum of History.

Yet the bulk of Jo Ann's time was spent in supporting Dan's practice of medicine—which she considered a ministry—and being a devoted and fun-loving mother to their three children: Drew, now a commercial realtor and developer in Evansville, IN; Brett, who runs his own currency hedge fund in London, England, and recently became engaged to Mariela Ferro; and Carol, an attorney, political analyst and commentator, who lives in San Marino, CA, with her husband Jack Liebau, a portfolio manager who recently opened his own investment management firm. Carol, after surviving Harvard Law School as an overt Republican, worked faithfully on my staff in Washington for 2 years before realizing that her colleagues simply could not listen fast enough. All three children remember lives filled with the love, support and encouragement of their parents—and many, many good times.

Truly, Dan and Jo Ann's life together has been full of accomplishments and blessings—most notably, the heartfelt love and respect of their children and children-in-law. We wish them every happiness in the years to come, together with our warmest congratulations and best wishes.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. CRAIG, Mr. BINGAMAN, Mr. INHOFE, and Mr. SMITH):

S. 1934. A bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions; to the Committee on the Judiciary.